

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

MERRIL et al.

Serial Number: 08/879,139

Filed: June 19, 1997



Group Art Unit: 1643

Examiner: D. Wortman

For: ANTIBACTERIAL THERAPY WITH BACTERIOPHAGE GENOTYPICALLY
MODIFIED TO DELAY INACTIVATION BY THE HOST DEFENSE SYSTEM

DECLARATION

Assistant Commissioner for Patents
Washington, D.C. 20231

June 21, 1999

Sir:

I, Lorraine C. Barlow, a citizen of the United States, hereby declare and state:

1. I am a secretary at the firm of Nikaido, Marmelstein, Murray & Oram LLP (referred to herein as the firm).

2. As a secretary at the firm, I am responsible for assisting Ms. Monica Chin Kitts. My duties being responsible for assisting Ms. Kitts include following the docketing and USPTO filing procedures for the firm. Ms. Kitts is responsible for the above application.

3. Upon examining my personal docket book after receiving the facsimile transmission of June 15, 1999 from Donna C. Wortman, Ph.D. in connection with the above application, I noted that my personal docket book contains no notation of any due

date for a response to an Office Action in the above application on January 2, 1999 (i.e., three months from the alleged date of mailing of the Office Action in the above application). ATTACHMENT 1 is a true and correct copy of my personal docket book covering January 2, 1999.

4. Upon examining the cover of the file for the above application after receiving the facsimile transmission of June 15, 1999 from Donna C. Wortman, Ph.D. in reference to the above application, I noted that there is no notation of any due date for a response to an Office Action in the above application. ATTACHMENT 2 is a true and correct (reduced-size) copy of the cover of the file for the above application.

5. I have been instructed on the importance of ensuring that my personal docket book and the cover of each file being handled by Ms. Kitts reflect every due date established by mail received from the USPTO concerning any application being handled by Ms. Kitts.

6. I am not aware of any occurrence where an Office Action (in an application where the applicant has not instructed us to abandon the application) was mailed to the firm and was not docketed in the master docket, in my personal docket book and in the docket book of Ms. Kitts.

7. Based on the above, it is my belief that the October 2, 1998 Office Action concerning the above application was never received by the firm.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false

statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

L. Barlow
Lorraine C. Barlow

June 17, 1999
Date

Enclosures:

ATTACHMENT 1
ATTACHMENT 2

February 1999
 S M T W T F S
 1 2 3 4 5 6
 7 8 9 10 11 12 13
 14 15 16 17 18 19 20
 21 22 23 24 25 26 27
 28

Saturday January 2

New Year's Bank Holiday (Scotland) 2/363

7:00 a.m.	P564 - 7003	1 st Activin	p.m. 12:00
7:15	08 776, 188		12:15
7:30			12:30
7:45	P1614 - 7088	Response due	12:45
8:00	08 773, 877		1:00
8:15			1:15
8:30			1:30
8:45			1:45
9:00			2:00
9:15			2:15
9:30			2:30
9:45			2:45
10:00			3:00
10:15			3:15
10:30			3:30
10:45			3:45
11:00			4:00
11:15			4:15
11:30			4:30
11:45			4:45

Sunday 3/362 3

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ISSUE DATE: _____

PATENT APPLICATION

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INVENTOR(S) Merril et al.

SERIAL NO. 08/879/39 FILE

TITLE Antibacterial Therapy with Bacteriophage Genotypically Modified to Delay Inactivation by the Host Defense System

ASSIGNEE: Exponential Biotherapies Inc. & USA Rep. by Sec.
of Human etc. PRIORITY: _____

RELATED U.S. APPLICATIONS 08/593,269 P8026-3002

SPECIAL CLIENT INSTRUCTIONS:

[illegible]

ATTACHMENT 2

SERIAL #: NONE

C/M: 8026-7004

CLIENT NAME: Exponential Diathermy CLIENT REFERENCE

CLIENT
MATTIE

